

EHB 1376 - S COMM AMD

By Committee on Natural Resources, Energy & Water

ADOPTED AS AMENDED 04/17/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.03.250 and 1987 c 109 s 83 are each amended to
4 read as follows:

5 (1) Any person, municipal corporation, firm, irrigation district,
6 association, corporation, or water users' association hereafter
7 desiring to appropriate water for a beneficial use shall make an
8 application to the department for a permit to make such appropriation,
9 and shall not use or divert such waters until he or she has received a
10 permit from the department as in this chapter provided. The
11 construction of any ditch, canal, or works, or performing any work in
12 connection with said construction or appropriation, or the use of any
13 waters, shall not be an appropriation of such water nor an act for the
14 purpose of appropriating water unless a permit to make said
15 appropriation has first been granted by the department(~~(;—PROVIDED,~~
16 ~~That))~~).

17 (2) A temporary permit may be granted upon a proper showing made to
18 the department to be valid only during the pendency of such application
19 for a permit unless sooner revoked by the department(~~(;—PROVIDED,~~
20 ~~FURTHER, That))~~).

21 (3) Nothing in this chapter (~~(contained)~~) shall be deemed to affect
22 RCW 90.40.010 through 90.40.080 except that the notice and certificate
23 (~~(therein)~~) provided for in RCW 90.40.030 shall be addressed to the
24 department, and the department shall exercise the powers and perform
25 the duties prescribed by RCW 90.40.030.

26 (4) No permit is required to capture or use water in rain barrels,
27 cisterns, ponds, or other storm water facilities for capturing runoff
28 from residential, commercial, or industrial properties, or from public
29 facilities, regardless of whether the captured water is put to
30 beneficial use. The captured water may not be transferred to or used

1 in a water resource inventory area (WRIA), as defined in RCW 90.82.020,
2 other than the water resource inventory area in which the water is
3 captured. The exemption specified in this subsection only applies
4 within counties that are not under the jurisdiction of growth
5 management hearings boards established in RCW 36.70A.250.

6 **Sec. 2.** RCW 90.03.370 and 2002 c 329 s 10 are each amended to read
7 as follows:

8 (1)(a) All applications for reservoir permits are subject to the
9 provisions of RCW 90.03.250 through 90.03.320. But the party or
10 parties proposing to apply to a beneficial use the water stored in any
11 such reservoir shall also file an application for a permit, to be known
12 as the secondary permit, which shall be in compliance with the
13 provisions of RCW 90.03.250 through 90.03.320. Such secondary
14 application shall refer to such reservoir as its source of water supply
15 and shall show documentary evidence that an agreement has been entered
16 into with the owners of the reservoir for a permanent and sufficient
17 interest in said reservoir to impound enough water for the purposes set
18 forth in said application. When the beneficial use has been completed
19 and perfected under the secondary permit, the department shall take the
20 proof of the water users under such permit and the final certificate of
21 appropriation shall refer to both the ditch and works described in the
22 secondary permit and the reservoir described in the primary permit.
23 The department may accept for processing a single application form
24 covering both a proposed reservoir and a proposed secondary permit or
25 permits for use of water from that reservoir.

26 (b) The department shall expedite processing applications for the
27 following types of storage proposals:

28 (i) Development of storage facilities that will not require a new
29 water right for diversion or withdrawal of the water to be stored;

30 (ii) Adding or changing one or more purposes of use of stored
31 water;

32 (iii) Adding to the storage capacity of an existing storage
33 facility; and

34 (iv) Applications for secondary permits to secure use from existing
35 storage facilities.

1 (c) A secondary permit for the beneficial use of water shall not be
2 required for use of water stored in a reservoir where the water right
3 for the source of the stored water authorizes the beneficial use.

4 (2)(a) For the purposes of this section, "reservoir" includes, in
5 addition to any surface reservoir, any naturally occurring underground
6 geological formation where water is collected and stored for subsequent
7 use as part of an underground artificial storage and recovery project.
8 To qualify for issuance of a reservoir permit an underground geological
9 formation must meet standards for review and mitigation of adverse
10 impacts identified, for the following issues:

- 11 (i) Aquifer vulnerability and hydraulic continuity;
- 12 (ii) Potential impairment of existing water rights;
- 13 (iii) Geotechnical impacts and aquifer boundaries and
14 characteristics;
- 15 (iv) Chemical compatibility of surface waters and ground water;
- 16 (v) Recharge and recovery treatment requirements;
- 17 (vi) System operation;
- 18 (vii) Water rights and ownership of water stored for recovery; and
- 19 (viii) Environmental impacts.

20 (b) Standards for review and standards for mitigation of adverse
21 impacts for an underground artificial storage and recovery project
22 shall be established by the department by rule. Notwithstanding the
23 provisions of RCW 90.03.250 through 90.03.320, analysis of each
24 underground artificial storage and recovery project and each
25 underground geological formation for which an applicant seeks the
26 status of a reservoir shall be through applicant-initiated studies
27 reviewed by the department.

28 (3) For the purposes of this section, "underground artificial
29 storage and recovery project" means any project in which it is intended
30 to artificially store water in the ground through injection, surface
31 spreading and infiltration, or other department-approved method, and to
32 make subsequent use of the stored water. However, (a) this subsection
33 does not apply to irrigation return flow, or to operational and seepage
34 losses that occur during the irrigation of land, or to water that is
35 artificially stored due to the construction, operation, or maintenance
36 of an irrigation district project, or to projects involving water
37 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130

1 applies to those instances of claimed artificial recharge occurring due
2 to the construction, operation, or maintenance of an irrigation
3 district project or operational and seepage losses that occur during
4 the irrigation of land, as well as other forms of claimed artificial
5 recharge already existing at the time a ground water subarea is
6 established.

7 (4) Nothing in chapter 98, Laws of 2000 changes the requirements of
8 existing law governing issuance of permits to appropriate or withdraw
9 the waters of the state.

10 (5) The department shall report to the legislature by December 31,
11 2001, on the standards for review and standards for mitigation
12 developed under subsection (3) of this section and on the status of any
13 applications that have been filed with the department for underground
14 artificial storage and recovery projects by that date.

15 (6) Where needed to ensure that existing storage capacity is
16 effectively and efficiently used to meet multiple purposes, the
17 department may authorize reservoirs to be filled more than once per
18 year or more than once per season of use.

19 (7) No permit is required to capture or use water in rain barrels,
20 cisterns, ponds, or other storm water facilities for capturing runoff
21 from residential, commercial, or industrial properties, or from public
22 facilities, regardless of whether the captured water is put to
23 beneficial use. The captured water may not be transferred to or used
24 in a water resource inventory area (WRIA), as defined in RCW 90.82.020,
25 other than the water resource inventory area in which the water is
26 captured. The exemption specified in this subsection only applies
27 within counties that are not under the jurisdiction of growth
28 management hearings boards established in RCW 36.70A.250.

29 (8) This section does not apply to facilities to recapture and
30 reuse return flow from irrigation operations serving a single farm
31 under an existing water right as long as the acreage irrigated is not
32 increased beyond the acreage allowed to be irrigated under the water
33 right that applies to the property.

34 (9) In addition to the facilities exempted under subsection (8) of
35 this section, this section does not apply to small irrigation
36 impoundments. For purposes of this subsection, "small irrigation
37 impoundments" means surface storage ponds less than ten acre feet in

1 volume used to impound irrigation water under an existing water right
2 where use of the impoundment: (a)(i) Facilitates efficient use of
3 water; or (ii) promotes compliance with an approved recovery plan for
4 endangered or threatened species; and (b) does not expand the number of
5 acres irrigated or the annual consumptive quantity of water used.
6 Water remaining in a small irrigation impoundment at the end of an
7 irrigation season may be carried over for use in the next season;
8 however, the limitations of this subsection (9) apply to such a carry
9 over."

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10 On page 1, line 2 of the title, after "requirements;" strike the
11 remainder of the title and insert "and amending RCW 90.03.250 and
12 90.03.370."

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